



*Commonwealth of Virginia*  
*Office of Governor Terry McAuliffe*

March 31, 2014

**MEMORANDUM**

TO: Executive Branch Agency Heads  
CC: Cabinet Secretaries  
FROM: Paul Reagan, Chief of Staff  
SUBJECT: Contributions Prohibited During Procurement Process

This Memorandum adopts and affirms the process set forth by a previous Memorandum issued on December 10, 2010, by former Chief of Staff Martin Kent. Maintaining integrity in the public procurement process is essential to the establishment of sound business practices throughout the Commonwealth, and this Memorandum does not change any state employee's obligations to comply with the gift ban restrictions contained in Executive Order #2. Accordingly, it is very important that Secretaries and Agency Heads disseminate the guidance contained in this Memorandum to all persons involved in the procurement process.

Changes to the Code of Virginia (see §§ 2.2-3104.01, 2.2-4376.1, 56-573.3, 56-575.17: 1) provide that neither the Governor, his political action committee, nor any pertinent Secretary shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity who has submitted a bid or proposal pursuant to the Virginia Public Procurement Act, the Public-Private Transportation Act of 1995, or the Public-Private Education Facilities and Infrastructure Act of 2002, or from an officer or director of such bidder, offeror, or private entity, during the period between submission of the bid or proposal and award of a contract. The restrictions apply if the stated or expected value of the contract is \$5 million or more, and do not apply to contracts awarded as the result of competitive sealed bidding.

Furthermore, the Code of Virginia provides that no bidder, offeror, private entity, officer, or director shall knowingly provide, or make an express or implied promise to make such a contribution, gift, or other item to the Governor, his political action committee, or any pertinent Secretary in the circumstances described above. Any person who violates these Code provisions shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater.

Pursuant to the Governor's instructions to ensure compliance with the above mentioned provisions, I hereby direct his Secretaries and all executive branch agencies and institutions to comply with the following protocol:

1. The Department of General Services (DGS) shall develop guidelines for the Governor's Secretaries and executive branch agencies and institutions to report weekly all outstanding procurements and associated information that meets the above criteria.
2. Each Secretary and executive branch agency and institution shall report weekly to DGS all outstanding procurements and associated information that meets the above criteria in accordance with the guidelines developed by DGS.
3. Prior to accepting any gift or other item with a value greater than \$50, a Secretary shall consult with the Governor's Counsel's Office and use the weekly reports submitted to DGS described above to ensure that such gift is not from a prohibited source.
4. DGS shall prepare a consolidated weekly report of outstanding procurements and associated information that meet the above criteria and submit it to the Governor's Counsel's Office for comparison to a list of contributions to the Governor, his political action committee, and to Secretaries that shall include the name of the individual contributor, employer, whether an officer or director of the organization, and amount of the contribution.